IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1530 OF 2005.

IN

CRIMINAL APPEAL NO. 236 OF 2005.

Shabirali Fakruddin Mulla. ... Applicant.

V/s.

The State of Maharashtra.
(At the instance of Nagpada
Police Station.) ... Respondent.

Mr. Ganesh Gole, advocate for Applicant.

Mr. A.S.Shitole, APP for State.

CORAM : V.M.KANADE,J
DATE : MARCH 22, 2005.

P.C. :

1. Heard the learned counsel for the applicant and the learned APP for the State.

2. The applicant is convicted by the Trial Court for the offence punishable under section 307 of the Indian Penal Code and is sentenced to suffer R.I. for four years and to pay fine of Rs.5,000/- i.d. to undergo R.I. for 6 months. The prosecution case is that on 8/5/2000, the complainant Abdulla Khan and his mother were taking food outside the hut and at that

time Mohan Makwana came there and started abusing mother of the complainant. Thereafter, the accused came there. He was also under the influence of liquor. He tried to intervene and asked Mohan Makwana not to abuse the mother of the complainant. Thereafter, the accused gave blow with knife on the left-hand side of Mohan Makwana and thereafter, he ran away. The learned counsel for the applicant submits that there is inconsistency between the oral evidence and the medical evidence. It is submitted that three eye-witnesses which were examined by the prosecution have stated that the accused had given one blow to Mohan Makwana whereas the medical evidence shows that there are six injuries on his person. He therefore, submitted that there is an apparent contradiction between the statements of the witnesses and the medical evidence. He has further brought to my notice that there is also contradictory statement of the witnesses regarding the place where the accused was arrested and apprehended. He has taken me through examination-in-chief and cross-examination of prosecution witnesses and other witnesses also. In my view, prima facie, presence of the accused is established. All the eye-witnesses have also stated that he has given a blow with his knife to Mohan

Makwana. The Medical evidence shows that there were six stab injuries on the left side of the body of the injured. It is possible that the witnesses might have noticed only one stab wound on the left side though in fact accused had given multiple stab wounds to the injured. No case is therefore, made out for granting bail. Hence application for bail is rejected.

3. However, it is made clear that hearing of the appeal is expedited. Liberty is granted to the applicant to prepare private paper book and to apply for fix date of hearing after the paper book is prepared. In the event the appeal is not turned within a period of one year, the applicant is at liberty to apply for bail.

(V.M.KANADE,J)